THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.33109 of 1998

Dated : 21.03.2007

Between:

Bheempalli Suryanarayana S/o Parusuramulu and others.

… **PETITIONERS**

And:

The Mandal Revenue Officer,
Merakamududam Mandal, Vizianagaram District.

….**RESPONDENT**

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

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ORDER:

Petitioners claim to be landless poor persons. They were assigned various extents of land in Sy.Nos.92/6, 92/7 and 92, during the years 1973 and 1977, and the petitioners' families have been in possession and enjoyment of their respective land without any interruption. However, the respondent, without issuing any notice and proceedings, alleged to have cancelled the said assignment, and by the impugned notice dated 16.11.1998 the respondent proposed to auction the standing crops raised in the land assigned in favour of the petitioners on the ground that they have violated the conditions of patta. Petitioners allege that they came to know that no such auction was conducted on the date specified in the notice, and despite the same, some persons tried to interfere with the possession of the petitioners. Hence, this writ petition seeking a declaration that the

auction notice dated 16.11.1998 issued by the respondent is arbitrary and illegal.

Despite service of notice, the respondent has not chosen to file any counter.

Heard the learned counsel for the petitioners and the learned Government Pleader for Revenue.

This Court, while issuing rule nisi on 27.11.1998, suspended the operation of the impugned auction notice dated 16.11.1998. As the respondent did not file any counter stating as to whether any notice was issued to the petitioners and any orders were passed for cancelling the assignment granted in favour of the petitioners. Therefore, this Court is of the view that the impugned auction notice is illegal. If really the petitioners have violated the conditions of patta, it is always open for the respondent to pass appropriate orders. Without doing so, the respondent could not have issued the impugned auction notice, and hence, the same is liable to be set aside.

Accordingly, the writ petition is allowed setting aside the auction notice dated 16.11.1998 issued by the respondent. The respondent is hereby directed to pass appropriate orders, if he is of the opinion that the petitioners have violated the conditions of patta granted in their favour, duly affording sufficient opportunity to the petitioners. There shall be no order as to costs.

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21.03.2007

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